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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9-12 and 16-31* is/are rejected.

7)☒ Claim(s) *8,13-15 and 32* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 12/21/2007 have been fully considered but they are

not persuasive.

In response to Applicant's argument (page 10, paragraph 3 of Applicant's

Remarks/Arguments) that Zetts "does not disclose a playlist that comprises a start-of

message" (emphasis added by Applicant) and "nowhere does Zetts teach having media

offset information", Applicant should note that Zetts teaches a queue command (Fig. 2;

col. 5, line 21; col. 11, lines 55-58; col. 12, lines 18-20) in the playlist. Furthermore,

Zetts teaches a queue command implicitly has a starting point of the video which is

assumed to be the first frame and to start a video at some time offset in the video a

"queue with data" command is present which specifies a particular offset (col. 2, lines

38-43). Thus, Zetts teaches having media offset information.

In response to applicant's argument (page 10, paragraph 4 and page 11,

paragraphs 1-2 of Applicant's Remarks/Arguments) that Zetts "does not teach creating a

new playlist by adjusting attributes for one or more program segments" (emphasis

added by Applicant), applicant should note that the Server2 Playlist of Zetts is "a new

playlist" which is created by adjusting the offset of the target video in order to account

for delay, response time, etc. (col. 12, line 53-col. 13, line 5). Thus, Zetts teaches

creating a new playlist by adjusting attributes for one or more program segments.

In response to applicant's argument (page 11, paragraph 3 and page 12, paragraphs 1-2 of Applicant's Remarks/Arguments) that "there is no suggestion...in either Zetts or Hinderks, that the 'specified reference time' is based on the current time of day in a second time zone that is different than the first time zone" (emphasis added by Applicant), applicant should note that Hinderks is used to teach the ability to delay "any signal received from the network and replay it a fixed time delay" (paragraph 221). This would allow either the primary or secondary playlist of Zetts to be replayed at a time delay from a particular reference time zone, "a specified reference time", in order for viewers in a time zone different from the reference time zone to see a program at the correct time. Thus, Hinderks teaches a specified reference time is based on the current time of day in a second time zone that is different than the first time zone.

In response to applicant's argument (page 12, paragraph 4 and page 13, paragraphs 1-2 of Applicant's Remarks/Arguments) that "there is not indication that video archive 140 comprises any...playlists" (emphasis added by Applicant), applicant should note that the video archive 140 of Zetts contains all of the videos that are transferred to the primary and secondary servers (col. 5, lines 1-7). Thus, it is clear that the video archive 140 is the supplier of the playlists (Fig. 2) which are provided to the servers.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-3, 9, 10, 16-20, 22-25 and 27-30 are rejected under 35 U.S.C. 102(b)

as being anticipated by Zetts (US 6,378,129).

Regarding claims 1, 18, 23 and 30, Zetts teaches a method for automatically

creating a playlist, comprising:

receiving a reference playlist defining a plurality of attributes for each of one or

more program segments (col. 5, lines 8-14), the attributes comprising an on-air time

(col. 5, lines 14-22), a start-of message (col. 2, lines 38-43 and col. 5, lines 14-22—

"queue with data" specifies when the segment begins relative to the beginning of the

program), and a duration for each program segment (col. 5, lines 14-22);

comparing at least one on-air time in the reference playlist to a specified

reference time; identifying, based on the comparison, at least one program segment in

the reference playlist that is active at the specified reference time; and adjusting, based

on the at least one identified active program segment, one or more attributes for one or

more program segments in the reference playlist to create a new playlist (col. 11, lines

12-18; col. 12, line 43-col. 13, line 5—the system compares the local time with the

scheduled time of a video and determines a current play offset in order to synchronize

two playlists).

Regarding claim 2, Zetts teaches wherein: the reference playlist corresponds to a

playlist currently being executed by a first subsystem that sources an on-air feed (col. 4,

lines 34-36—primary server plays out video clips directly to air); and the specified

reference time is based on the current time of day (col. 12, line 43-col. 13, line 5—"local

time").

Regarding claims 3, 19 and 24, Zetts teaches executing the new playlist on a

second subsystem that provides failure protection for the first subsystem (col. 4, lines

34-36—secondary server).

Regarding claims 9, 20 and 25, Zetts teaches selecting the one or more program

segments in the reference playlist to adjust, taking into account a queuing delay

associated with a source of each selected program segment (col. 12, lines 56-64—

network delay and queuing delay).

Regarding claim 10, Zetts teaches wherein at least one active program segment

is not selected to be adjusted based on the queuing delay of the source associated with

the active program segment (col. 12, lines 56-64).

Regarding claims 16, 22 and 27, Zetts teaches wherein two or more program

segments are from different sources (Fig. 2—videos from sources, such as ABC,

FORD, McDonald's, etc., are stored in video archive 140 using hard disk storage and/or

a tape library).

Regarding claim 17, Zetts teaches wherein at least one of the one or more

program segments is sourced by a video server (Fig. 1—100).

Regarding claim 28, Zetts teaches wherein at least one content sourcing

subsystem includes: an automation server adapted to execute a playlist (Fig. 1—100); a

plurality of content sources (Fig. 2—videos from sources, such as ABC, FORD,

McDonald's, etc., are stored in video archive 140 using hard disk storage and/or a tape

library); and a content router coupled to the outputs of the content sources (Fig. 1—

165), wherein: the automation server is adapted to communicate information derived

from the playlist to one or more of the content sources in the plurality of content sources

(col. 4, lines 47-50); and the content router is adapted to select an output of one of the

plurality of content sources and output a routed output upon which the subsystem

stream of content is based (col. 4, lines 54-56).

Regarding claim 29, Zetts teaches a network management station adapted to

monitor the status of the subsystems and, in the event of a failure of a subsystem,

report this failure to the automated playlist chaser (col. 4, lines 33-45; col. 5, lines 1-7).

Regarding claim 31, Zetts teaches wherein the adjusting step comprises

adjusting, based on the at least one identified active program segment, at least one of

the on-air time, the start-of message, and the duration attributes for the one or more

program segments in the reference playlist to create the new playlist (col. 12, line 43-

col. 13, line 5—play offset of the target video is adjusted to create the new playlist in the

secondary video server).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 4-7, 21 and 26 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Zetts (cited in prior Office Action), as applied to claims 1, 2, 18 and

23 above, in view of Hinderks (US 2001/0025377; cited in prior Office Action).

Regarding claims 4 and 5, Zetts fails to clearly teach wherein the first subsystem

is a multicast subsystem and wherein the multicast subsystem is an internet-based

streaming subsystem.

In analogous art, Hinderks teaches wherein a subsystem is a multicast

subsystem and wherein the multicast subsystem is an internet-based streaming

subsystem (Fig. 34; paragraph 198—server, which is configured to output multicast IP

streams, schedules the content playlist so that the content is delivered in a

predetermined manner).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Zetts by configuring the subsystem as a

multicast subsystem and wherein the multicast subsystem is an internet-based

streaming subsystem, as taught by Hinderks, in order to generate IP digital data which

is then transmitted from a multicast content source site to a remote Internet point-of-

presence (POP) through a dedicated transmission channel substantially separate from

the Internet backbone (Hinderks: paragraph 29).

Regarding claims 6, 21 and 26, Zetts teaches wherein the reference playlist

corresponds to a playlist currently being executed by a first subsystem that sources a

first on-air feed (col. 4, lines 34-36—primary server plays out video clips directly to air)

and that the specified reference time is based on the current time of day (col. 12, line

43-col. 13, line 5—"local time"), but fails to clearly teach the first on-air feed that is

intended for viewing in at least a first time zone, and the specified reference time is

based on the current time of day in a second time zone that is different than the first

time zone.

In analogous art, Hinderks teaches a first on-air feed that is intended for viewing

in at least a first time zone, and the specified reference time is based on the current

time of day in a second time zone that is different than the first time zone (paragraph

221—a server allows delayed playing, "delay play", of multicast audio/video content

thus allowing a single network feed to originate on the east coast, or a "reference time" based on time of day in "second time zone", and delayed appropriately for each other time zone, e.g. central, mountain and pacific time zones, or "on-air feed that is intended for viewing in a first time zone").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zetts by incorporating the first on-air feed to be intended for viewing in at least a first time zone, and the specified reference time is based on the current time of day in a second time zone that is different than the first time zone, as taught by Hinderks, in order to allow viewers in each of these time zones to see the six o'clock network news, or other show, at the correct time in their respective time zones (Hinderks: paragraph 221).

Regarding claim 7, Zetts teaches executing the new playlist on a second subsystem that sources a second on-air feed, but fails to clearly teach that the second on-air feed is intended for viewing in at least the second time zone, wherein the second on-air feed is substantially a time-delayed version of the first on-air feed.

In analogous art, Hinderks teaches an on-air feed is intended for viewing in at least the second time zone, wherein the second on-air feed is substantially a time-delayed version of the first on-air feed (paragraph 221—a server allows delayed playing, "delay play", of multicast audio/video content thus allowing a single network feed to originate on the east coast, "a first on-air feed", and delayed appropriately for

each other time zone, "a second on-air feed" including e.g. central, mountain and pacific

time zones, or "at least the second time zone").

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Zetts by incorporating the on-air feed to be

intended for viewing in at least the second time zone, as taught by Hinderks, in order to

allow viewers in each of these time zones to see the six o'clock network news, or other

show, at the correct time in their respective time zones (Hinderks: paragraph 221).

6.   Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Zetts (cited in prior Office Action), as applied to claim 1 above, in view of

Pontenzone et al. (US 2002/0152278; cited in prior Office Action).

Regarding claim 11, Zetts teaches the received reference playlist is selected

from a plurality of playlists (Fig. 1—video archive 140), but fails to teach with the

assistance of a rule-based playlist validator.

In analogous art, Pontenzone teaches using a playlist validation module to select

a playlist (paragraphs 7 and 63—validation module validates playlists by verifying that

the contents of the playlist satisfies all requirements for a selected playlist).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Zetts by selecting a playlist with the assistance

of a rule-based playlist validator, as taught by Pontenzone, in order to assure that the

playlist is compliant with all rules concerning a selected playlist (Pontenzone:

paragraphs 7 and 63).

Regarding claim 12, Zetts and Pontenzone teach wherein at least one of the

playlists in the plurality of playlists is from a playlist archive (Zetts: Fig. 1—140).

Allowable Subject Matter

7.   Claims 8, 13, 14, 15 and 32 are objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims. The following is a statement of

reasons for the indication of allowable subject matter:

Regarding claim 8, Zetts and Hinderks teach executing the reference playlist on

a second subsystem that sources an intermediate feed that is substantially synchronous

with the first on-air feed that is sourced by the first subsystem; and delaying the

intermediate feed using a delay unit to produce a second on-air feed that is intended for

viewing in at least the second time zone, such that the difference between the start of a

given program segment in the first on-air feed and the start of the given program

segment in the second on-air feed is equal to the time of day difference between the

first and second time zones, however, the prior art of record fails to teach or reasonably

suggest *upon detecting a failure in the delay unit: the delay unit is bypassed such that*

the intermediate feed becomes the second on-air feed; and the new playlist is loaded

into and executed by the second subsystem as recited in the claims.

Regarding claims 13, 14 and 15, the prior art of record fails to teach or

reasonable suggest the combination of claim 1 and initializing a first variable based on

the reference time plus a processing time; initializing a second variable to the value of

the first variable; determining a current program segment from the reference playlist by

comparing the value of the second variable with timeslots for program segments in the

reference playlist; determining media type and corresponding queuing delay for the

source of the current program segment; updating the value of the second variable to be

equal to the value of first variable plus the queuing delay, and checking to see if the

updated value of the second variable is within the timeslot for the current program

segment, and, if it is not, repeating the steps until the updated value of the second

variable is within the timeslot for the current program segment as recited in the claims.

Regarding claim 32, the prior art of record fails to teach or reasonable suggest

the combination of claim 1 wherein the adjusting step comprises adjusting, based on the

at least one identified active program segment, the on-air time, the start-of message,

and the duration attributes for the one or more program segments in the reference

playlist to create the new playlist as recited in the claims.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Shelton Austin whose telephone number is (571) 272-

9385. The examiner can normally be reached on Monday through Thursday from 8:00-

5:30. The examiner can also be reached on Fridays from 9:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Grant, whose telephone number is (571) 272-7294, can be reached

on Monday through Friday from 7:30-5:00. The supervisor can also be reached on

alternate Fridays from 9:00-4:00. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Shelton Austin

/Christopher Grant/
Supervisory Patent Examiner, Art Unit 2623